

**California Regional Water Quality Control Board
Lahontan Region**

**REVISED MARCH 26, 2011
HEARING PROCEDURES
CONSIDERATION OF ISSUANCE OF AN AMENDED
CEASE AND DESIST ORDER
TO**

**ADELANTO PUBLIC UTILITY AUTHORITY
ADELANTO
SAN BERNARDINO COUNTY**

CONTINUED PUBLIC HEARING SCHEDULED FOR MAY 11, 2011

IMPORTANT

Please read these hearing procedures carefully. Failure to comply with the deadlines and other requirements contained herein may result in the exclusion of your documents and/or testimony.

Background

On December 23, 2010, the Unit Chief of the Enforcement and Special Projects Unit for the Water Board issued a Proposed Cease and Desist Order (Proposed Order) to the Adelanto Public Utility Authority alleging that it violated 1) Board Order Nos. R6V-2002-050 and R6V-2009-0036, both waste discharge requirements issued by the Water Board, 2) Cease and Desist Order No. R6V-2007-24, and 3) Cleanup and Abatement Order No. R6V-2010-0054. On March 10, 2011, the Water Board, following a public hearing, issued a Cease and Desist Order, (Board Order No. R6V-2011-0015, hereinafter "Order") to the Adelanto Public Utility Authority. Additionally, the Water Board continued the public hearing to its May 11, 2011 meeting for the sole purpose of considering the evidence in the record and accepting additional evidence on whether to amend the Order to include a prohibition on additional discharges to the wastewater collection system.

Purpose of Hearing

The purpose of the hearing on May 11, 2011 is for the Water Board to further consider the evidence in the record along with additional evidence related to the Adelanto Public Utility Authority's progress and plans to achieve and maintain compliance with Water Board orders. Based on the evidence, the Water Board will consider whether to adopt the Prosecution Team's proposed order dated January 11, 2011 as proposed or with modifications that are a logical outgrowth of the evidence and testimony presented or to reject the proposed order and maintain the Order it adopted on March 10, 2011. The public hearing on May 11, 2011 will commence at a time and location as announced in the Water Board meeting

agenda. An agenda for the meeting will be available on the Water Board's web page at <http://www.waterboards.ca.gov/lahontan/> no later than April 22, 2011.

Hearing Procedures

The hearing will be conducted in accordance with the hearing procedures dated January 3, 2011 as amended by these hearing procedures. All provisions of the January 3, 2011 hearing procedures remain in effect unless modified in these procedures. A copy of the general procedures governing adjudicatory hearings before the Water Board may be found at Title 23 of the California Code of Regulations, section 648 et seq., and is available at <http://www.waterboards.ca.gov> or upon request. In accordance with California Code of Regulations, title 23, section 648, subdivision (d), any procedure not provided by these Hearing Procedures is deemed waived. Chapter 5 of the Administrative Procedures Act (commencing with section 11500 of the Government Code) does not apply to this hearing, except as provided in these Hearing Procedures and the California Code of Regulations, title 23, section 648 subdivision (b).

The Water Board's Advisory Team must receive any objections to these hearing procedures **no later than 5:00 p.m. on Monday, April 4, 2011** or they will be considered waived.

Separation of Functions

The section in the January 3, 2011 hearing procedures regarding separation of functions remains the same except that Douglas F. Smith, Supervising Engineering Geologist has been added to the Advisory Team.

Hearing Time Limits

To ensure that all participants have an opportunity to participate in the hearing, the following time limits shall apply: each designated party shall have a combined 45 minutes to present evidence, cross-examine witnesses, and provide a closing statement; and each interested person shall have five (5) minutes to present a non-evidentiary policy statement. Participants with similar interests or comments are requested to make joint presentations, and participants are requested to avoid redundant comments. Participants who would like additional time must submit their request to the Advisory Team **no later than 5:00 p.m. on Tuesday, April 12, 2011**. Additional time may be provided at the discretion of the Advisory Team (prior to the hearing) or the Water Board Chair (at the hearing) upon a showing that additional time is necessary.

Evidence, Exhibits and Policy Statements

The following information must be submitted in advance of the hearing and, if applicable, consistent with the due dates specified in the Order:

- A. Each party must submit **by 5:00 p.m. on Wednesday, April 27, 2011**, a list of additional witnesses (witnesses not previously identified in submittals pursuant to the Hearing Procedures dated January 3, 2011), the subject of each witness' proposed testimony, and, if the witness is intended to be called as an expert witness, their qualifications. (Original to Harold Singer, one copy to Kimberly Niemeyer and copies to the contacts for the other party as indicated in the Hearing Procedures dated January 3, 2011)
- B. The Adelanto Public Utility Authority must submit (original to the Prosecution Team as specified by the Order and, and one copy to Harold Singer [if more than 20 pages or contain any documents greater than letter size or are other than black and white, 15 additional copies to Harold Singer] and one to Kimberly Niemeyer) the following:
1. **As soon as practicable**, a Spill Prevention Management Plan that has been accepted by the Water Board's Assistance Executive Officer as being adequate, as required by Water Board Order RV6-2010-0054.
 2. **By April 15, 2011**, the Percolation Pond Restoration Plan as defined in Section I.B. of the Order.
 3. **By May 2, 2011** (note that the due date in the Order is April 30, 2011 which is a Saturday), the Wastewater Disposal Facilities Work Plan as defined in Section I.D. of the Order.
 4. **By May 2, 2011**, any and all evidence that it wants the Water Board to consider related to its efforts to comply forthwith with the various orders listed in Section I.A. of the Order and the status of its efforts to complete construction of Pond 5 by May 31, 2011 as specified in the Order.
- C. The Water Board Prosecution Team must submit (original [if more than 20 pages or contain any documents greater than letter size or are other than black and white, than an additional 15 copies] to Harold Singer, one copy to Kimberly Niemeyer and copies to the contacts for the Adelanto Public Utility Authority as specified in the Hearing Procedures dated January 3, 2011) the following:
1. **By April 27, 2011** any response to the Percolation Pond Restoration Plan that it wants the Water Board to consider.
 2. **By May 6, 2011**, any written response to the Wastewater Disposal Facilities Work Plan or evidence regarding the ability of the Adelanto Public Utility Authority to comply forthwith with the various orders listed in Section I.A. of the Order including the ability of the Adelanto Public Utility Authority to complete Pond 5 by May 31, 2011.

The submittals required in A, B and C above may be made by electronic e-mail. If the submittal is more than 20 pages or contain any documents greater than letter size or are other than black and white, the submittal must also be made by hard copy by the specified due date.

Interested persons who would like to submit written non-evidentiary policy statements are encouraged to submit them to the Advisory Team as early as

possible, but **no later than 5:00 p.m. on Monday, May 2, 2011**. Interested persons do not need to submit written comments in order to speak at the hearing.

In accordance with Title 23, California Code of Regulations, section 648.4, the Water Board endeavors to avoid surprise testimony or evidence. Absent a showing of good cause and lack of prejudice to the parties, the Water Board may exclude evidence and testimony that is not submitted in accordance with this hearing procedure. Excluded evidence and testimony will not be considered by the Water Board and will not be included in the administrative record for this proceeding. Power Point and other visual presentations may be used at the hearing, but their content may not exceed the scope of other submitted written material. A written and electronic copy of such material that Designated Parties or Interested Persons intend to present at the hearing must be submitted to the Advisory Team at or before the hearing for inclusion in the administrative record. Additionally, any witness who has submitted written testimony for the hearing shall appear at the hearing and affirm that the written testimony is true and correct, and shall be available for cross-examination.

Evidentiary Objections

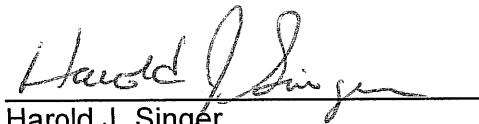
At the May 11, 2011 hearing, either party may formally object to evidence submitted by the other party. Such objections will be considered at the start of the hearing.

Evidentiary Documents and File

The Proposed Order and related evidentiary documents are on file and may be inspected or copied at the Water Board offices at 2501 Lake Tahoe Boulevard, South Lake Tahoe or 14440 Civic Drive, Suite 200, Victorville. This file shall be considered part of the official administrative record for this hearing. Other submittals received for this proceeding will be added to this file and will become a part of the administrative record absent a contrary ruling by the Water Board Chair.

Questions

Questions concerning these hearing procedures may be addressed to Harold Singer, Executive Officer, at (530) 542-5412 or Kimberly Niemeyer, Staff Counsel, at (916) 341-5547 or at the addresses shown in the Hearing Procedures dated January 3, 2011.


Harold J. Singer
Executive Officer

DATE: March 26, 2011